

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

UNITED STATES OF AMERICA

v.

LENARD GIBBS

CRIMINAL ACTION NO.

1:17-cr-207-CAP-CMS

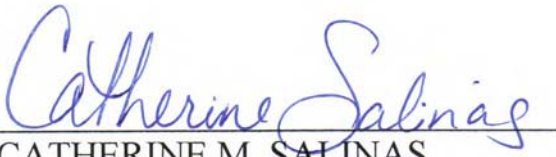
**REPORT AND RECOMMENDATION**

This case is before the Court on Defendant Lenard Gibbs's Motion to Suppress Cell Site Data and Other Evidence Collected Pursuant to the Stored Communications Act (the "Motion"), in which Mr. Gibbs argues that documents and records obtained from third parties under the Stored Communications Act, 18 U.S.C. § 2701 et seq. (the "Act"), should be suppressed because they were obtained without a warrant. [Doc. 21]. In the motion, Mr. Gibbs recognizes that the Eleventh Circuit held in United States v. Davis, 785 F.3d 498 (11th Cir. 2015) that obtaining documents and records from third parties under the Act does not amount to a search under the Fourth Amendment. Mr. Gibbs, however, notes that the United States Supreme Court has recently granted certiorari "on the legality and contours" of the Act. [Doc. 21 at 1].

At the pretrial conference, defense counsel recognized that the Motion was due to be denied at this time under current Eleventh Circuit precedent, and stated that the motion was filed to preserve the issue in the event that in the future, the Supreme Court takes a position different from that of the Eleventh Circuit on this issue.

Because this Court is required to follow binding Eleventh Circuit precedent, including the Eleventh Circuit's holding in Davis, I **RECOMMEND** that the Motion [21] be **DENIED**.

This 9th day of August, 2017.

  
CATHERINE M. SALINAS  
UNITED STATES MAGISTRATE JUDGE